

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 14307US02)

In the Application of:

Jeyhan Karaoguz, et al.

Electronically Filed on June 10, 2010

Serial No. 10/675,193

Filed: September 30, 2003

For: METHOD AND SYSTEM FOR
MEDIA EXCHANGE NETWORK
FUNCTIONALITY ACCESSED
VIA MEDIA PROCESSING
SYSTEM KEY CODE ENTRY

Examiner: Patrick A. Ryan

Group Art Unit: 2427

Confirmation No. 5333

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on March 15, 2010 (Final Office Action) with a three-month period of reply through June 15, 2010. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

REMARKS/ARGUMENTS

Claims 1-36 are pending in the instant application. Claims 1, 7, 13, and 21 are independent. Claims 1-36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over USP 6,766,956 ("Boylan") in view of USP 5,675,647 ("Garneau"). The Applicant respectfully traverses these rejections at least based on the following remarks.

Examiner's Response to Arguments in the Final Office Action and Advisory Office Action

With regard to the rejection of claims 1, 7, 13, and 21 under 103(a), the Applicant maintains that the combination of Boylan and Garneau does not disclose or suggest at least the limitation of "associating, outside the home, a plurality of key codes with a corresponding plurality of media files ... authorizing communication of one of said plurality of media files corresponding to at least one of said associated plurality of key codes, to the home, said authorizing using said associated plurality of key codes," as recited in Applicant's claim 1.

The Examiner equates Boylan's bar-code associated with the TV programs, text, graphics, audio and video media to Applicant's "associating ...key codes with a corresponding plurality of media files". The Examiner also equates Boylan's scanned codes to Applicant's "key sequences" in the alleged "key codes". The Examiner concedes that Boylan does not disclose or suggest that the same bar-code (the alleged "key codes associated with media"), is used for authorizing the communication of the media (see Final Office Action in page 5).

The Examiner looks to Garneau to disclose Boylan's above deficiencies, namely, "authorizing communication ... of media files corresponding to...said associated plurality of key codes," and "said authorizing using said associated plurality of key codes," as recited in Applicant's claim 1. In other words, the Examiner alleges that Garneau overcomes Boylan's deficiencies by disclosing that the same key code, which is used to associate with the media (i.e., pay per view programs), is also used for authorizing the communication of the media.

More specifically, the Examiner equates Garneau's pay per view program "promotion code" (i.e., program code) to Applicant's "associating key codes with corresponding media files". The Examiner alleges that Garneau discloses "authorizing" by way of a "validation code" entered by a subscriber, attempting to access encrypted content. **In other words, the Examiner alleges that Garneau's "validation code" to be the same as Garneau's "promotion code" (the alleged "key code") entered by the subscriber.**

The Examiner's argument is deficient. For example, Garneau (*see* Abstract and col. 7, lines 39-54) discloses that the "validation code" is an "event request code", which is separately checked and verified by the respective table 33 (verify subscriber's terminal serial number) and table 35 (verify program code or promotion code) in the checking system 24 (*see* Abstract and col. 6, lines 23-59). In other words, Garneau's "validation code" (i.e., the alleged "authorizing communication of media") is based on both the subscriber's terminal serial number (*see* col. 8, lines 1-9) and the program code (i.e., promotion code) (*see* col. 8, lines 10-14). The Applicant however, points out that Garneau's subscriber's terminal serial number is an equipment serial number, which cannot be associated with any media files. In this regard, Garneau's subscriber's terminal serial number cannot be any part of the alleged key code (associate with the media files). Therefore, the Examiner's allegation that Garneau's "validation code" is the same as Garneau's "promotion code" (the alleged "key code") is unsupported.

In other words, Garneau discloses using the "validation code" (i.e., both subscriber terminal serial number and program code), and not just the promotion code (the alleged "key code") to authorize media communication. Therefore, Garneau does not disclose or suggest using the same alleged key code (i.e., the promotion code associated with the media) for authorizing the communication of the media.

Accordingly, Garneau does not overcome Boylan's deficiencies. Namely, Garneau does not disclose or suggest "authorizing communication of one of said plurality of media files corresponding to at least one of said associated plurality of key codes,... using said associated plurality of key codes," as recited in Applicant's claim 1.

The Examiner in the 6/1/10 Advisory Office Action (page 2) states the following:

"Applicant presents, ... (1) "Garneau does not disclose or suggest that the same key code is used to associate with the media (i.e. pay per view programs), is also used for authorizing the communication of the media" ..."

In response to argument (1), it is the Examiner's position that Garneau's "program code" is a portion of an "event request code", where the "event request code" is used by Checking System 24 to, in part, authorize the communication of media (as Garneau describes in Col. 6 Lines 23-32 and Col. 7 Lines 39-48; with further reference to Final Office Action mailed March 15, 2010 ("Office Action") Pages 4-5). Therefore, **the Examiner submits that the same "program code" of Garneau is used for authorizing the communication of media**. The Examiner additionally notes that **the claimed "authorizing" step is based on "at least one of said associated plurality of key codes" such that**

multiple key codes corresponding to media files are not precluded from the claimed invention."

The Examiner, in effect, seems to argue that Garneau's "event request code" is the alleged "plurality of key codes", and Garneau's "program code" is the alleged "one of the plurality of key codes". The Applicant respectfully disagrees, and refers the Examiner to Applicant's above arguments that Garneau's "event request code" includes both the subscriber's terminal serial number and the program code. However, **Garneau's subscriber's terminal serial number is an equipment serial number, which cannot be associated with any media files. In this regard, Garneau's subscriber's terminal serial number cannot be any part of the alleged key code** (associate with the media files). Therefore, the Examiner's allegation that Garneau's "event request code" is the alleged "**plurality of key codes**" is, moot.

The Examiner in the 6/1/10 Advisory Office Action also states the following:

"Applicant presents, ... (2) "Garneau discloses that the alleged 'authorizing' process requires validation of the subscriber's terminal serial number, prior to verifying the program code stored in the program table 35" (After Final Pages 17 and 21...The Examiner respectfully disagrees.

In response to argument (2), it is the Examiner's position that the claimed "authorizing" step is completed in Garneau when the subscriber receives a password allowing access to the media file (as Garneau described in Col. 8 Lines 15-25; with further reference to Office Action Pages 4-5). The Examiner additionally notes that the claimed "authorizing using said associated plurality of key codes" does not define who or what is performing the "authorizing" or how the entity is "using" the plurality of key codes to complete the authorizing function, such that the teachings of Garneau would be precluded from the claimed invention .."

The Examiner's above rebuttal is still moot, in view of Applicant's arguments that Garneau's "event request code" is **not** the alleged "**plurality of key codes**". Accordingly, the Applicant maintains that the combination of Boylan and Garneau does not disclose or suggest **"authorizing communication of one of said plurality of media files corresponding to at least one of said associated plurality of key codes,... using said associated plurality of key codes,"** as recited in Applicant's claim 1.

Based on the above rationale, the Applicant maintains that the combination of Boylan and Garneau does not establish a prima facie case of obviousness to reject independent claim 1, and claim 1 is submitted to be allowable. Claims 7, 13, and 21 are also allowable at least for the reasons stated above with regard to claim 1.

The Applicant maintains all remaining arguments regarding the independent and dependent claims stated in the 5/17/10 response to Final Office Action.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-36 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Patent Agent at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Date: June 10, 2010

Respectfully submitted,
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